

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Strike 3 Holdings, LLC v. Doe

Case No. 25-cv-2327-BAS-DDL (S.D. Cal. Sept. 26, 2025) · No. 25-cv-2327-BAS-DDL · Decided September
26, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 STRIKE 3 HOLDINGS, LLC, Case No.: 25-cv-2327-BAS-DDL 12
Plaintiff, ORDER GRANTING EX PARTE 13 v. APPLICATION FOR LEAVE TO SERVE A
THIRD-PARTY 14 JOHN DOE subscriber assigned IP SUBPOENA PRIOR TO A RULE address
76.82.27.73, 15 26(f) CONFERENCE Defendant. 16 [Dkt. No. 4] 17 18 Before the Court is
Plaintiff Strike 3 Holdings, LLC’s (“Plaintiff”) Ex Parte 19 Application for Leave to Serve a
Third-Party Subpoena Prior to a Rule 26(f) Conference.

20 Dkt. No. 4. For the reasons stated below, Plaintiff’s application is GRANTED. 21 I 22
BACKGROUND 23 On September 5, 2025, Plaintiff filed a Complaint against Defendant John
Doe 24 subscriber assigned IP address 76.82.27.73 (“Defendant”), asserting a single cause of 25
action for direct copyright infringement. Dkt. No. 1 at 8. Plaintiff alleges it is the owner 26 of
certain adult-content films and that Defendant is “committing rampant and wholesale 27 copyright
infringement” by downloading and distributing “40 [of Plaintiff’s] movies over 28 an extended
period of time” without Plaintiff’s authorization, permission, or consent.

Id. 1 at 2. Defendant’s name and address are unknown to Plaintiff, who can identify Defendant 2
only by Defendant’s IP address: 76.82.27.73. Id. Plaintiff has identified Spectrum, an 3 internet
service provider (“ISP”), as the owner of Defendant’s IP address. Dkt. No. 4-1 at 4 17. Plaintiff
therefore seeks the Court’s leave to serve a subpoena on Spectrum which will 5 “demand the true
name and address of Defendant” and nothing more.

Id. at 8. Plaintiff 6 asserts “[w]ithout this information, [it] cannot serve Defendant nor pursue this
lawsuit and 7 protect its copyrights.” Id. 8 II. 9 LEGAL STANDARDS 10 Federal Rule of Civil
Procedure 26 provides that “a party may not seek discovery 11 from another source before the
parties have conferred as required by Rule 26(f)” unless 12 such discovery is “authorized” by the
Court.

Fed. R. Civ. P. 26(d)(1). “[I]n rare cases,” 13 however, courts allow “limited discovery to ensue
after filing of the complaint to permit 14 the plaintiff to learn the identifying facts necessary to
permit service on the defendant.” 15 Columbia Ins. Co. v. seescandy.com, 185 F.R.D. 573, 577
(N.D. Cal. 1999) (citing 16 Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir.

1980)).¹ Courts authorize such “expedited discovery” where the need for the information “outweighs the prejudice to the responding party.” *Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276 (N.D. Cal. 2002) (applying “the conventional standard of good cause in evaluating [a] request for expedited discovery”). “A district court’s decision to grant discovery to determine jurisdictional facts is a matter of discretion.” *Columbia Ins.*

Co., 185 F.R.D. at 578. The Ninth Circuit holds when the Defendant’s identity is unknown at the time the complaint is filed, a court may grant leave to take early discovery to determine the Defendant’s identity “unless it is clear that discovery would not uncover the identity, or 25 26 27 1 Unless otherwise noted, all citations, subsequent history, and parallel reporter citations are omitted, and in direct quotes, all internal quotation marks, brackets, ellipses 28 1 that the complaint would be dismissed on other grounds.” *Gillespie*, 629 F.2d at 642; see also *JustM2J LLC v. Brewer*, No. 2:25-CV-00380-DAD-SCR, 2025 WL 435827, at *4 3 (E.D.

Cal. Feb. 7, 2025) (noting “California district courts have found good cause to 4 authorize expedited discovery to ascertain the identity of an unknown defendant” and 5 collecting cases). “[T]o prevent abuse of this extraordinary application of the discovery 6 process and to ensure that [the] plaintiff has standing to pursue an action against [the] 7 defendant,” the applicant must “make some showing that an act giving rise to civil liability 8 actually occurred and that the requested discovery is specifically aimed at revealing 9 specific identifying features of the person or entity who committed that act.” *Columbia Ins.*

Co., 185 F.R.D. at 579-80. 11 III. 12 DISCUSSION 13 Courts apply a three-factor test when considering motions for early discovery to 14 identify the Defendant. *Id.* at 578-80. First, the applicant should “identify the missing 15 party with sufficient specificity such that the Court can determine that the defendant is a 16 real person or entity who could be sued in federal court.” *Id.* at 578.

Second, the applicant 17 must describe “all previous steps taken to locate the elusive defendant.” *Id.* at 579. Third, 18 the applicant should “establish to the Court’s satisfaction that [its] suit... could withstand 19 a motion to dismiss.” *Id.* The Court considers each of these factors as applied to the instant 20 ex parte application. 21 A. Identification of Missing Parties with Sufficient Specificity 22 A plaintiff can satisfy its burden of identifying the missing party with specificity by 23 “identify[ing] the unique IP addresses” of the allegedly infringing individuals and then 24 “us[ing] geolocation technology to trace these IP addresses to a point of origin.” See *Pink Lotus Entm’t, LLC v. Does 1-46*, No. C-11-02263 HRL, 2011 WL 2470986, at *3 (N.D.

26 Cal. June 21, 2011) (finding plaintiff satisfied first factor). Before filing the complaint, 27 Plaintiff used geolocation technology to trace the IP address to locations in Fallbrook, 28 California, and Carlsbad, California, both of which are within this District. Dkt. No. 4-2 at 1 29. This information was confirmed before the instant motion was filed. *Id.* The Court 2 finds Plaintiff

has “sufficiently shown” that Defendant is a “real person[] likely residing in 3 California who may be sued in this Court.” *Pink Lotus*, 2011 WL 2470986, at *3; see also *4 Strike 3 Holdings, LLC v. Doe*, No. 24-CV-03852-PHK, 2024 WL 4445129, at *4 (N.D.

5 Cal. Oct. 8, 2024) (finding on similar facts plaintiff’s “allegations strongly suggest 6 Defendant Doe is an identifiable person, a subscriber of the IP address..., and thus a 7 natural person who can be legally sued in federal court”). 8 B. Attempts to Locate Defendant 9 Next, Plaintiff must identify all steps taken to identify and effect service upon 10 Defendant.

See *Columbia Ins. Co.*, 185 F.R.D. at 579. Plaintiff reports it attempted to 11 “correlate” Defendant’s IP address to Defendant by using web search tools, conducted 12 research on other methods of identifying and locating Defendant, and consulted with 13 experts in cybersecurity. Dkt. No. 4-1 at 14. Despite these efforts, Plaintiff has been unable 14 to identify Defendant and represents it cannot do so without the requested discovery.

Id. 15 “Good cause exists where, as here, a plaintiff has exhausted its means to identify the 16 defendant through publicly available information and has no other way to identify the bad 17 actors involved in the scheme.” *Amazon.com, Inc. v. Does 1-20*, No. 2:24-CV-01083-TL, 18 2024 WL 4893384, at *2 (W.D. Wash. Nov. 26, 2024).

Accordingly, the Court finds 19 Plaintiff endeavored to identify and locate Defendant before filing the instant application. 20 C. Ability to Withstand a Motion to Dismiss 21 Plaintiff’s Complaint alleges a single cause of action against Defendant for direct 22 copyright infringement. See Dkt. No. 1 at 8. Plaintiff alleges it owns the subject 23 intellectual property, which Defendant copied and distributed without Plaintiff’s 24 authorization, permission, or consent.

Id. The Court finds Plaintiff has alleged a prima 25 facie case of direct copyright infringement against Defendant that would likely withstand 26 a motion to dismiss for failure to state a claim. See *Malibu Media*, 319 F.R.D. 299, 305 27 (E.D. Cal. 2016) (finding adult-entertainment company had established a prima facie claim 28 for copyright infringement on similar facts).

1 Plaintiff also bears the burden of establishing jurisdictional facts. See *Columbia Ins. 2 Co.*, 185 F.R.D. at 578. As noted, using geolocation technology, Plaintiff traced 3 Defendant’s IP address to a point of origin within this District before filing its Complaint 4 and confirmed that the IP address traces to this District before filing the instant ex parte 5 application.

See Dkt. No. 4-2 at 29. These facts are sufficient to show “that it is likely that 6 the [d]efendant is located within the Southern District of California and is subject to the 7 personal jurisdiction of the Court.” *Criminal Prods., Inc. v. Doe*, No. 16-cv-02353-DMS- 8 MDD, 2016 WL 6070355, at *3 (S.D. Cal. Oct. 17, 2016).

The Court therefore finds 9 Plaintiff has alleged enough facts to show it can likely withstand a motion to dismiss for 10 lack of personal jurisdiction. 11 For the same reason, venue appears proper. Civil actions for copyright infringement 12 “may be instituted in the district in which Defendant or his agent resides or may be found.” 13 28 U.S.C.A. § 1400(a).

Plaintiff alleges “a substantial part” of the alleged wrongful acts 14 occurred in this District, and further that Defendant resides in this District. Dkt. No. 1 at 15 3. The Court finds the Complaint could likely withstand a motion to dismiss for improper 16 venue. 17 In sum, and for the reasons stated above, the Court finds Plaintiff has established 18 good cause to pursue expedited discovery.

Plaintiff’s ex parte application for leave to 19 subpoena Defendant’s ISP provider is accordingly GRANTED. 20 D. Good Cause Exists for a Limited Protective Order 21 This Court is empowered to issue a protective order to protect any person or party 22 “from annoyance, embarrassment, oppression or undue burden or expense.” Fed. R. Civ. 23 P. 26(c).

As other courts have observed, both due to the “highly personal nature” of the 24 alleged infringement and the possibility that the subscriber associated with the IP address 25 is not the infringer, good cause exists to protect Defendant Doe’s privacy until further 26 development of the record. See Strike 3 Holdings, 2024 WL 4445129, at *6; accord 27 Columbia Ins.

Co., 185 F.R.D. at 578 (“People who have committed no wrong should be 28 able to participate online without fear that someone who wishes to harass or embarrass 1 them can file a frivolous lawsuit and thereby gain the power of the court’s order to discover 2 their identity.”). Notably, Plaintiff does not oppose, “and in fact[] welcomes,” measures 3 the Court deems necessary to protect the privacy of potential parties and nonparties.

Dkt. 4 No. 4-1 at 18. 5 Accordingly, all parties are ORDERED to treat any identifying information 6 regarding Defendant Doe (or any nonparty identified by Spectrum) produced in response 7 to the subpoena as “confidential” until Defendant Doe or other nonparties have had the 8 opportunity to file a motion with the Court to proceed in the litigation anonymously and 9 pursuant to a Stipulated Protective Order, and the Court has had a chance to rule on that 10 motion.

For the purposes of this Order, “confidential” treatment means the information 11 cannot be used for any purpose outside of this litigation, and within this litigation can only 12 be accessed by the following: individual parties; executives or other designees of corporate 13 parties who are tasked with making decisions about the litigation; counsel for the parties 14 (in-house and outside), and staff working on this litigation at counsel’s direction, including 15 e-discovery or other technical personnel; and outside discovery vendors retained by the 16 parties.

17 IV. 18 CONCLUSION 19 For the reasons stated above, Plaintiff’s Ex Parte Application for Leave to Serve a 20 Third-Party Subpoena Prior to a Rule 26(f) Conference [Dkt. No. 4] is

GRANTED. It is 21 hereby further ORDERED that: 22 1. Plaintiff may serve a subpoena pursuant to Fed. R. Civ. P. 45 upon Spectrum 23 to obtain the name and address only of Defendant John Doe, based on the IP address 24 identified in the Complaint: 76.82.27.73.

The subpoena shall not seek Defendant's 25 telephone number, email address, or Media Access Control (MAC) address, as none of this 26 information is necessary for Plaintiff to identify and serve Defendant. 27 2. The return date of the subpoena must allow for at least forty-five (45) days 28 from service to production. If Spectrum intends to move to quash the subpoena, it must do 1 || so prior to the return date of the subpoena.

If a motion to quash or other customer challenge 2 || is brought, Spectrum must preserve the information sought by Plaintiff pending resolution 3 || of the motion or challenge. 4 3. Spectrum shall have fourteen (14) calendar days after service of the subpoena 5 || to notify its subscriber that his/her identity has been subpoenaed by Plaintiff.

The 6 || subscriber whose identity has been subpoenaed shall have thirty (30) calendar days from 7 || the date of such notice to challenge the disclosure to Plaintiff by filing an appropriate 8 || pleading with this Court contesting the subpoena. 9 4. Plaintiff shall serve a copy of this Order with any subpoena served upon 10 || Spectrum pursuant to this Order.

Spectrum, in turn, must provide a copy of this Order 11 along with the required notice to the subscriber whose identity is sought pursuant to this 12 || Order. 13 5. Any identifying information concerning Defendant Doe or any nonparty 14 || provided in response to the subpoena shall be treated as "confidential" in accordance with 15 || the terms set forth above.

16 6. Plaintiff may use any information disclosed pursuant to the subpoena only in 17 || pursuing this litigation. 18 7. No other discovery is authorized at this time. 19 || IT IS SO ORDERED. 20 || Dated: September 26, 2025 _—_— 21 Tbr! hho " 22 "Hon. David D. Leshner SCS 23 United States Magistrate Judge 24 25 26 27 28